

(JF)

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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CHIQUITA FRESH NORTH AMERICA, LLC,  
DOLE FRESH FRUIT COMPANY,  
S. KATZMAN PRODUCE INC., and  
KATZMAN BERRY CORP.,

Plaintiffs,

- against -

LONG ISLAND BANANA CORP., SUFFOLK  
BANANA CO., INC., and THOMAS J. HOEY,

Defendants.

-----X  
FILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT, N.Y.  
Case No. ★ FEB 14 2014

**ORDER TO SHOW CAUSE  
WHY A PRELIMINARY  
INJUNCTION SHOULD NOT  
BE ISSUED UNDER  
FED. R. CIV. P. 65(b)**

CV 14 0982  
SPATT, J.  
TOMLINSON, M

-----X  
Upon reading and filing the annexed declaration of Megan K. Locke, the exhibits  
of plaintiff Chiquita Fresh North America, LLC executed on January 31, 2014, and the exhibits  
annexed thereto, the certification of counsel why notice should not be required pursuant to Fed.  
R. Civ. P. 65(b), the memorandum of law in support, and upon all other papers and proceedings  
heretofore had herein, it is

**ORDERED**, that the above-named Defendants show cause before this Court at Room  
1020, United States District Court for the Eastern District of New York, Central Islip Division,  
100 Federal Plaza, Central Islip, New York 11722 on February 28, 2014 at 3:30 o'clock ~~noon~~  
P.m., or as soon thereafter as counsel may be heard, why an order should not be issued pursuant  
to Rule 65 of the Federal Rules of Civil Procedure enjoining the Defendants, their customers,  
agents, employees, officers, directors, subsidiaries, related entities, assigns, and banking  
institutions, during the pendency of this action, from alienating, dissipating, paying over or  
assigning any assets of Long Island Banana Corp. and Suffolk Banana Co., Inc. or their  
subsidiaries or related companies, except for payment to Plaintiffs, until further order of this  
Court or until Defendants pay Plaintiffs the aggregate amount of \$719,515.85 by bank check or

wire transfer, at which time this Order is dissolved; and it is further

**ORDERED**, that, sufficient reason having been shown therefore, pending the hearing of Plaintiffs' application for a preliminary injunction, pursuant to Fed. R. Civ. P. 65, Defendants, their customers, agents, employees, officers, directors, subsidiaries, related entities, assigns, and banking institutions are temporarily restrained and enjoined from alienating, dissipating, paying over or assigning any assets of Long Island Banana Corp. and Suffolk Banana Co., Inc., or their subsidiaries or related companies, except for payment to Plaintiffs, until further order of this Court or until Defendants pay Plaintiffs the aggregate amount of \$719,515.85 by bank check or wire transfer, at which time this Order is dissolved; and it is further

**ORDERED** that in the event Defendants fail to pay Plaintiffs the aggregate amount of \$719,515.85 by bank check or wire transfer within ~~two (2)~~ <sup>five (5)</sup> business days of service of this Order, then Defendants shall file with this Court, with a copy to Plaintiffs' counsel, an accounting which identifies the assets and liabilities and accounts receivable reports of Long Island Banana Corp. and Suffolk Banana Co., Inc. signed under penalty of perjury; and that Defendants shall also supply to Plaintiffs' attorney, within five (5) days of the date of the <sup>serve to the</sup> Order, any and all documents in their possession, custody or control related to the assets and liabilities of Long Island Banana Corp. and Suffolk Banana Co., Inc. and their related and subsidiary companies, including, but not limited to, the most recent balance sheets, profit/loss statements, accounts receivable reports, accounts payable reports, accounts paid records and income tax returns and bank statements with cancelled checks for the last 90 days; and it is further

<sup>In an amount of \$25,000, shall be retained by the party with the day.</sup>  
**ORDERED** that bond shall be waived in view of Defendants now holding \$719,515.85 worth of Plaintiffs' assets; and it is further

**ORDERED** that service of a copy of this order and the papers upon which it is based,

*ADS  
usd*

*ADS  
usd*

*ADS* } together with the summons and complaint, by Federal Express or other nationally recognized  
*ADS* } overnight delivery service upon the Defendants on or before February 21, 2014, shall be  
} deemed good and sufficient service thereof; and it is further

*ADS* } ORDERED that answering papers, if any shall be served by Defendants so as to be  
} received by counsel for Plaintiffs at least 48 hours prior to the return date set forth herein.  
*ADS* } 24

ISSUED: Sunday, Feb 14, 2014  
                at 11:00 AM

s/ Arthur D. Spatt

United States District Judge